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Conference of the States Parties to the United Nations Convention against Corruption

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Report on the meeting of the Open-ended Intergovernmental Working Group on Asset Recovery held in Vienna on 6 and 7 June 2018*

I. Introduction

1. In its resolutions 1/4, 2/3, 3/3, 4/4, 5/3, 6/2, 6/3 and 7/1, the Conference of the States Parties to the United Nations Convention against Corruption established and decided to continue the work of the Open-ended Intergovernmental Working Group on Asset Recovery.

2. In its resolution 7/1, the Conference welcomed the outcome of the meetings of the Working Group and invited it to propose future agenda items. Also in that resolution, the Conference decided that the Working Group should continue its work by, inter alia:

(a) Continuing its efforts to gather information on and conduct enhanced analysis of best practices for the identification and compensation of all different types of victims in accordance with the Convention against Corruption, including, as necessary, by soliciting information from States parties, facilitating exchanges among experts and organizing expert panels, while taking into consideration similar work undertaken at prior meetings of the Working Group, by expert panels and in discussions;

(b) Conducting analysis on third-party challenges and their impact on asset recovery under chapter V of the Convention;

(c) Continuing to collect data on best practices, with a view to developing non-binding guidelines concerning the timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention;

(d) Conducting an analysis of how communication and coordination between various asset recovery practitioner networks could be improved, with a view to developing guidelines for the proactive and timely sharing of information, as mentioned in subparagraph (c) above.

* The present report was submitted after the deadline as a result of consultations with Member States.

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II. Organization of the meeting

A. Opening of the meeting

3. The Open-ended Intergovernmental Working Group on Asset Recovery held its twelfth meeting in Vienna on 6 and 7 June 2018. The meeting included two meetings that were held jointly with the Implementation Review Group, on 6 June.

4. The twelfth meeting of the Working Group was chaired by Vivian N. R. Okeke (Nigeria) and Ignacio Baylina Ruiz (Spain).

5. Delegations expressed their deepest sympathy to the victims of the volcanic eruption in Guatemala and extended their condolences to the people of Guatemala.

B. Adoption of the agenda and organization of work

6. On 6 June 2018, the Working Group adopted the following agenda:

1. Organizational matters:
   (a) Opening of the meeting;
   (b) Adoption of the agenda and organization of work.
2. Overview of progress made in the implementation of asset recovery mandates.
3. Forum for advancing practical aspects of asset recovery, including challenges and good practices.
4. Thematic discussions:
   (a) Timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention: collection of data with a view to developing non-binding guidelines;
   (b) Improving communication and coordination between various asset recovery practitioner networks, with a view to developing guidelines for the proactive and timely sharing of information.
5. Forum for discussions on capacity-building and technical assistance.
6. Adoption of the report.

C. Attendance

7. The following States parties to the Convention were represented at the meeting of the Working Group: Algeria, Angola, Argentina, Austria, Azerbaijan, Bangladesh, Belgium, Benin, Bhutan, Bolivia (Plurinational State of), Botswana, Brazil, Brunei Darussalam, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechia, Dominican Republic, Ecuador, Egypt, El Salvador, Eswatini, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Kazakhstan, Kenya, Kiribati, Kuwait, Kyrgyzstan, Lebanon, Lesotho, Libya, Liechtenstein, Malawi, Malaysia, Malta, Mauritius, Mexico, Mongolia, Morocco, Namibia, Nepal, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Switzerland, Tajikistan, Thailand, Togo, Tunisia, Turkey, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen and Zimbabwe.

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8. The European Union, a regional economic integration organization that is a party to the Convention, was represented at the meeting.

9. The following United Nations programmes and funds, institutes of the United Nations crime prevention and criminal justice programme network and specialized agencies of the United Nations system were represented by observers: Basel Institute of Governance, United Nations Interregional Crime and Justice Research Institute, International Labour Office and World Bank.

10. The following intergovernmental organizations were represented by observers: Cooperation Council for the Arab States of the Gulf, European Union Agency for Law Enforcement Cooperation (Europol), International Anti-Corruption Academy and Organization for Security and Cooperation in Europe.

11. The Sovereign Military Order of Malta, an entity maintaining a permanent observer office at Headquarters, was represented at the meeting.

III. Overview of progress made in the implementation of asset recovery mandates

12. A representative of the secretariat provided an overview of the progress made in the implementation of asset recovery mandates. It was noted that, in line with its mandate, the Group focused on three main objectives: (a) developing cumulative knowledge; (b) building confidence and trust between requesting and requested States; and (c) technical assistance, training and capacity-building. With regard to the development of cumulative knowledge, the United Nations Office on Drugs and Crime (UNODC) had continued the development of its Tools and Resources for Anti-Corruption Knowledge (TRACK) portal, specifically the portal's legal library. UNODC had also contributed to the Lausanne process facilitated by the Government of Switzerland, the International Centre for Asset Recovery of the Basel Institute on Governance, and the Stolen Asset Recovery (StAR) Initiative, including work on a step-by-step guide to support the practical application and implementation of the Lausanne guidelines for the efficient recovery of stolen assets, and a corresponding online tool. Moreover, as part of the Global Forum on Asset Recovery, the StAR Initiative had been assisting national authorities in creating beneficial ownership guides. The representative of the secretariat informed the Working Group that the upgraded Mutual Legal Assistance Request Writer Tool had been made available online.

13. With regard to building trust between requesting and requested States, it was highlighted that UNODC and the StAR Initiative had continued their active support for regional networks engaged in confiscation and asset recovery. UNODC and the StAR Initiative had also continued to engage in advocacy in a number of international forums to promote the development of approaches and measures creating an international policy and legal framework conducive to the recovery and return of stolen assets. Such forums included the International Association of Anti-Corruption Authorities, the Egmont Group, the Anti-Corruption and Transparency Working Group of Asia-Pacific Economic Cooperation (APEC), the International Criminal Police Organization (INTERPOL), the European Union and Eurojust, the Group of Seven and the Group of Twenty anti-corruption working groups and the World Economic Forum, in particular its Partnering against Corruption Initiative.

14. The Working Group noted that the secretariat had prepared a proposed workplan covering the activities of the Working Group for the biennium 2018–2019 (CAC/COSP/WG.2/2018/4).

15. The representative of Egypt, speaking on behalf of the Group of African States, commended the high-level meeting held in New York on 23 May to mark the fifteenth anniversary of the adoption of the United Nations Convention against Corruption, and highlighted the fundamental importance of asset recovery in that context. He informed the Group that 2018 had been designated as African

Anti-Corruption Year, with the theme "Winning the fight against corruption: a sustainable path to Africa's transformation", and that 11 July, the date on which the African Union Convention on Preventing and Combating Corruption had been adopted in 2003, had been designated as the annual African Anti-Corruption Day. He recalled Conference of the States Parties resolution 6/2, in which the Conference had directed the Working Group to develop guidelines for proactive and timely sharing of information pertaining to asset recovery, and Conference resolution 7/1, on the strengthening of mutual legal assistance for international cooperation and asset recovery. He urged States parties to eliminate safe havens and lift bank secrecy provisions to facilitate asset recovery to the countries of origin in the spirit of the Convention. In addition, he highlighted the challenges faced by States in asset recovery and international cooperation, such as a lack of political will, complexity of and differences in legal systems and lack of familiarity with procedural requirements. He encouraged States parties to work together, with a view to promoting asset recovery.

16. The representative of the European Union noted that chapter V of the Convention, which was under review during the second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, covered issues key to tackling corruption and preventing its proceeds from being re-invested in the licit economy or used for further acts of corruption. He referred to relevant European Union legislation that had been adopted or was about to be adopted, including a directive on confiscation, a regulation on the mutual recognition of freezing and confiscation orders and the fifth European Union anti-money-laundering directive. He highlighted the European Union's continuous support for international cooperation in asset recovery, in particular its support to the Camden Asset Recovery Inter-Agency Network and its affiliated networks, as well as its support to the achievement of the Sustainable Development Goals, in particular target 16.4 thereof (by 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime), in the context of the Addis Ababa Action Agenda of the Third International Conference on Financing for Development. He emphasized that returned assets must be used and managed according to the principles of transparency and accountability and in a manner conducive to promoting sustainable development.

17. Speakers underscored that the working group was a vital forum for promoting dialogue on asset recovery, along with other regional and international bodies and mechanisms, including the StAR Initiative. They welcomed the involvement of UNODC in the Global Forum on Asset Recovery, which had been held in Washington, D.C., in December 2017, hosted by both the United Kingdom and the United States. With regard to the workplan for future work of the Group, one speaker suggested that the topic of third-party challenges should include the issue of contingency fees for attorneys retained by requesting States, as claims by attorneys had the potential to protract proceedings and create competing obligations and ambiguity for the requested States. That speaker also noted that civil and administrative cooperation had been mentioned in the note by the Secretariat on progress made in the implementation of asset recovery mandates (CAC/COSP/WG.2/2018/2) and stressed that it was an issue that had already been addressed by both the Conference and the Working Group on International Cooperation.

18. With regard to UNODC tools and resources, one speaker was concerned that the TRACK portal and the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC) were incompatible and suggested that a way to connect the two systems should be identified.

19. A number of speakers emphasized the progress made in their national asset recovery efforts and presented information on recent national legal and institutional reforms and initiatives with regard to enhancing their countries' capacity to effectively cooperate in asset recovery cases. Reforms to ensure the full implementation of chapter V of the Convention included the adoption of

comprehensive domestic legislation, including specialized legislation on mutual legal assistance, asset recovery and money-laundering; the development of country-specific asset recovery guides; the establishment of centralized and specialized agencies and the appointment of specialized personnel; the management and disposal of seized and confiscated assets; and the inclusion of asset recovery clauses in mutual legal assistance agreements. Several speakers cited examples of successful asset recovery in transnational corruption cases. One speaker gave a presentation on his country's national agency for finding, tracing and managing assets derived from corruption and other crimes.

20. Several speakers referred to Conference resolution 7/2, on preventing and combating corruption in all its forms more effectively, including when it involves vast quantities of assets, and called on States to intensify efforts and share experiences and good practices.

21. One speaker referred to the Lima commitment on democratic governance against corruption, adopted at the Eighth Summit of the Americas, which included references to asset recovery measures.

22. Some speakers reported on practical challenges resulting from a lack of cooperation, a lack of exchange of information or a lack of political will. Secrecy, different evidentiary standards and differences in legal procedures were also mentioned as obstacles to effective asset recovery. Some speakers also referred to the necessity of recovering assets from financial centres and tax havens, and existing difficulties in that regard.

23. In order to overcome such challenges, speakers suggested that the secretariat should continue updating the directory of competent national authorities, including the timely updating of the information on asset recovery focal points, and consider developing tools, including a mobile application, to facilitate the timely sharing of information among competent authorities. It was also suggested that the meetings of the Working Group should be used as an opportunity to hold bilateral meetings between requesting and requested States, with a view to facilitating consultations on cases. One speaker suggested that, while chapter V of the Convention provided a good basis for asset recovery, there was a need to refine and elaborate on its provisions, for example with regard to methods for tracing assets or executing foreign orders. It was stated that non-binding guidelines in that regard could be valuable.

24. Some speakers underlined the right of States to dispose of recovered assets as they considered appropriate, without it being subject to any conditions and in accordance with the Convention in terms of respect of sovereignty and non-interference in domestic affairs.

IV. Forum for advancing practical aspects of asset recovery, including challenges and good practices

25. A representative of the Secretariat briefed the Working Group on the outcome of the international expert group meeting on beneficial ownership transparency, held in Vienna on 3 and 4 October 2017 (CAC/COSP/IRG/2018/7). The meeting had been organized with financial support from the Russian Federation, pursuant to the mandate contained in Conference resolution 6/5, entitled "St. Petersburg statement on promoting public-private partnership in the prevention of and fight against corruption". He recalled that, in that resolution, the Conference had called upon States parties to strengthen the involvement of the private sector in the fight against corruption and had invited them, inter alia, to enhance transparency, including on beneficial ownership of private entities. The Working Group reviewed, in the light of recent developments, the conclusions and recommendations contained in the study *The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It*, published by the StAR Initiative in 2011. The representative of

the secretariat stated that a workshop on the use of attorney-client privilege and/or legal professional privilege would be held in the second half of 2018.

26. In the ensuing discussion, speakers recalled that the return of stolen assets was a fundamental principle of the Convention and noted its positive impact on international cooperation in the field of anti-corruption. Several speakers mentioned specific measures that their countries had taken to facilitate the return of assets, including the strengthening of legislation and the creation of special bodies or the identification of existing bodies as central authorities for domestic coordination and provision of mutual assistance in asset recovery cases. One speaker reported on how his country had reformed its criminal legislation to recognize foreign forfeiture and confiscation orders. Some speakers highlighted the importance of using non-conviction-based freezing and confiscation proceedings to recover stolen assets, and cited successful examples thereof.

27. One speaker recommended that the Group consider the inclusion of the matter of mutual recognition of non-conviction-based freezing and confiscation orders in its agenda for future meetings.

28. Several speakers suggested the addition of collecting information and examples on ensuring transparency and accountability in the return and disposal of assets to the Group's agenda. The need to continue the implementation of chapter V and to have good faith cooperation and strong political will in requesting and requested States were stressed by many speakers as key to the successful resolution of asset recovery cases.

29. Despite the positive trends that had been witnessed, speakers expressed their concern regarding the impediments that remained to international cooperation on asset recovery. Many speakers referred to differences in and complexities of national systems and procedures, the lack of awareness among practitioners of procedures available at the national level, and delays in responding to mutual legal assistance requests and onerous evidentiary requirements. Speakers agreed that those impediments indicated that the Convention was yet to be fully implemented. One speaker described efforts to make mutual legal assistance delivery more effective through the creation of specialized units.

30. Regarding transparency in the area of beneficial ownership, several speakers shared information about recent legislative and policy developments in their countries for enhanced identification of beneficial owners of corporate vehicles. One speaker reported that his State had established a public beneficial ownership registry, and urged others to follow that example.

31. Some speakers proposed that a new international legal instrument on asset recovery be developed to promote more effective cooperation among States in asset recovery. Several speakers expressed the view that the Convention provided a sufficient framework for asset recovery. Several speakers noted that discussions on the need for a new instrument were premature, in particular in view of the ongoing review of implementation of chapter V of the Convention. They noted the comprehensive and far-reaching nature of chapter V and said that it provided a good basis for asset recovery that could be further operationalized by way of developing guidelines and good practices, rather than new obligations.

32. Many speakers welcomed the non-binding guidelines on the management, use and disposal of frozen, seized and confiscated assets contained in document CAC/COSP/WG.2/2018/3 and expressed the view that more time should be allocated for further review of and making comments and holding discussions on those guidelines. One speaker informed the Group that an international expert meeting on the management, disposal, use and recovery of frozen, seized and confiscated assets had been organized in Antigua, Guatemala, from 2 to 4 May 2018 by Guatemala and UNODC. The restitution of stolen assets, relevant experiences and the non-binding guidelines had been discussed at that meeting.

V. Thematic discussions

Timely sharing of information to enable States parties to take appropriate action, in accordance with article 56 of the Convention: collection of data with a view to developing non-binding guidelines; and improving communication and coordination between various asset recovery practitioner networks, with a view to developing guidelines for the proactive and timely sharing of information

33. A representative of the secretariat introduced the background note on the timely sharing of information in accordance with article 56 of the Convention and improving communication and coordination between various asset recovery practitioner networks (CAC/COSP/WG.2/2018/5). The document contained information on the practices of States and also contained information provided by States parties in response to a note verbale sent on 2 May 2017 on the timely sharing of information, as well as information contained in the country reports and executive summaries of the States parties that had finalized their country reviews on article 46, paragraph 4, of the Convention since the previous meeting of the Working Group. In addition, the document contained an overview of practitioners' networks relevant to asset recovery, with a view to determining the role of focal points in information exchanges and in examining how those networks ensured communication and coordination. Lastly, the document contained draft non-binding guidelines on the timely sharing of information and improved communication and coordination between asset recovery practitioner networks, for consideration by the Working Group.

34. To facilitate discussions under the agenda item, a panel discussion on the timely sharing of information in accordance with article 56 of the Convention and on improving communication and coordination between various asset recovery practitioner networks was organized.

35. The panellist representing the Camden Asset Recovery Inter-Agency Network informed the Group about the role of the Network in supporting countries in their asset recovery efforts. The Network had been launched in 2004 as an informal network of English-speaking law enforcement and judicial practitioners. It comprised 57 registered member jurisdictions, 10 international organizations and 6 regional asset recovery networks. The panellist explained that the Network's four-pillar strategy was: (a) to develop cooperation among the Network's contact points and international partners; (b) to enhance effective information exchange; (c) to develop the Network as a centre of excellence; and (d) to make an impact on policies related to asset recovery. In addition, the panellist highlighted the importance of the Network's efforts to build trust between practitioners to enhance cooperation. Further, the panellist noted that the Network supported other agencies' efforts to establish regional networks in regions that did not have such networks, including the UNODC initiative in West and Central Asia. Lastly, she recommended closer cooperation with the asset recovery focal points of INTERPOL and the StAR Initiative and highlighted the importance of spontaneous exchanges of information within the networks.

36. The panellist representing the Asset Recovery Inter-Agency Network for East Africa and the Asset Recovery Inter-Agency Network for Southern Africa informed the Group that the Asset Recovery Inter-Agency Network for East Africa had been launched in November 2013, as part of the East African Association of Anti-Corruption Authorities, with the objective of providing an informal network in the East Africa region for the exchange of information that would lead to the recovery of assets acquired through crime. The Network also worked with other regional networks, six of which were observers. The panellist explained the differences in the legal frameworks that governed asset recovery among the States members of the Network and informed the Working Group that the Network was working on guidelines on exchanging information and requesting assistance between States members of the Network. The panellist informed the Group about a successful recovery case (the Chickengate scandal), during which the investigators had used the Network informally before proceeding with formal requests for assistance. She also informed the Group about the Asset Recovery Inter-Agency Network for Southern

Africa, which was an informal multi-agency network for countries in Southern Africa. The panellist noted that the two networks regularly exchanged information and concluded by highlighting the challenges facing asset recovery efforts, including the lack of non-conviction-based confiscation in some of the States members of the Network, language barriers and delays in obtaining information requested from other networks.

37. The panellist from Panama provided an overview of the activities of the Asset Recovery Network of the Financial Action Task Force of Latin America. He explained that the Network was the result of an initiative by UNODC, implemented with the support of the Inter-American Drug Abuse Control Commission of the Organization of American States and the Financial Action Task Force of Latin America and that it consisted of 16 member States and 2 observers. He highlighted that the objectives of the Network included facilitating the exchange of information for the identification, tracing and recovery of proceeds of crime, promoting the exchange of information to support mutual legal assistance and enabling the exchange of good practices and experiences. He noted that, since 2010, information had been exchanged through a secure electronic platform and he concluded by highlighting the importance of furthering cooperation among all asset recovery regional networks.

38. The panellist representing the Asset Recovery Inter-Agency Network for Asia and the Pacific informed the Working Group about the Network, which consisted of 21 members and 8 observers. He highlighted the importance of formal and informal international cooperation in the framework of asset recovery, both within the Network and across other regional networks. He highlighted some of the challenges related to spontaneous exchanges of information, including the lack of formal investigations conducted against assets or persons, the lack of legal frameworks and/or mechanisms in the requested States enabling joint investigation or other form of international cooperation and the lack of guidelines and best practices to deal with the spontaneous exchange of information. He explained that the Asset Recovery Inter-Agency Network for Asia and the Pacific could communicate with other jurisdictions through the secretariats of other similar networks. He noted that the Network's contact points provided expertise and effective advice within the scope of their jurisdictions' legal frameworks, thus facilitating cooperation through mutual legal assistance channels. He concluded by emphasizing the need for mechanisms for and guidelines on handling the information shared within the Network and underlined that it should not compete with, but rather strengthen, formal mutual legal assistance channels.

39. The panellist representing the International Anti-Corruption Coordination Centre informed the Group that the Centre had been established in July 2017, following the Anti-Corruption Summit held in London in May 2016, as a response to the historical lack of effective coordination of law enforcement authorities in grand corruption cases. The Centre consisted of specialist law enforcement agencies representing six countries and INTERPOL. Its overarching goal was to coordinate a global response to grand corruption cases. To date, the Centre had received 19 referrals of grand corruption cases and had disseminated four composite information packages containing relevant analysis and intelligence gathered by its member agencies. The panellist reiterated the Centre's willingness to continue its work with partners to promote the exchange of information on grand corruption cases.

40. In the ensuing discussion, speakers highlighted the important role played by the regional asset recovery networks in fostering informal cooperation and facilitating formal cooperation. In addition, speakers noted that each network complemented the others and stressed the need to promote exchange of information between them. Several speakers underscored the importance of cooperation between financial intelligence units and asset recovery offices.

41. One speaker stressed that the return of stolen assets to the victim State was an obligation of States parties, that cooperation in asset recovery should also respect the sovereignty of States parties and that other States or international organizations should not interfere in any way.

42. One speaker pointed out that the asset recovery networks should supplement rather than replace existing mutual legal assistance channels. Another speaker suggested that the networks should be used in parallel to mutual legal assistance channels in order to be time-efficient. In addition, one speaker underscored the need to keep the lists of contact points, maintained by the networks, updated, with a view to enhancing the usefulness of such networks.

43. Several speakers requested the secretariat to continue working on the draft non-binding guidelines concerning the timely sharing of information and referred to the possibility of providing written comments on the document for further discussion at the next meeting of the Group. One speaker recommended that States take the necessary steps in order to join such regional networks and to publish asset recovery guides and their country review reports, as they served as sources of information for practitioners in understanding the laws of each other's countries.

VI. Forum for discussions on capacity-building and technical assistance

44. At its meetings held jointly with the Implementation Review Group on 6 June 2018, the Working Group on Asset Recovery considered item 5 of its agenda, entitled "Forum for discussions on capacity-building and technical assistance", as well as item 4, entitled "Technical assistance" of the agenda of the Implementation Review Group (CAC/COSP/IRG/2018/1). The joint meetings were held in line with resolution 6/1 of the Conference, in which the Secretariat had been requested to structure the provisional agendas of the Implementation Review Group and the other subsidiary bodies established by the Conference in such a way as to avoid the duplication of discussions, while respecting their mandates. The joint meetings were also held pursuant to the workplan agreed for the period 2017–2019.[1]

45. A representative of the secretariat presented a conference room paper on technical assistance in support of the implementation of the Convention against Corruption, including analysis of technical assistance needs emerging from the country reviews during the second cycle of the Implementation Review Mechanism (CAC/COSP/IRG/2018/CRP.2). Noting that the executive summaries of the country reviews of nine States had been finalized during the second cycle by the time of the meeting, she explained that technical assistance needs had been identified in six of those executive summaries. Of the needs identified, two thirds related to chapter II (Preventive measures) and one third to chapter V (Asset recovery) of the Convention. Overall, the most commonly identified need was capacity-building, specifically with regard to the enhancement of technical skills and the capacity to monitor and assess data. The need for legislative assistance had also been identified by a few States. She also explained that, while discussions during country visits frequently focused on rules on virtual and cryptocurrencies, only one State had identified a need for assistance relating to confiscation with regard to virtual currencies. She noted that some States that had identified technical assistance needs during the first cycle had not done so in the second cycle. That could be an indication that follow-up to first cycle recommendations was showing tangible results, but further information was required to confirm that encouraging observation.

46. In relation to technical assistance in support of the Convention, the representative of the secretariat outlined a number of actions taken, including the regional platform approach to fast-track the implementation of the Convention in East Africa and South-East Asia, funded by the Cross-Government Prosperity Fund of the United Kingdom. UNODC had also continued its support for the strengthening of regional networks engaged in asset recovery and confiscation. She presented the

[1] Information on the panel and the ensuing discussions on using the reviews of the implementation of the Convention as a basis for programme development, which were held during the joint meetings of the two working groups, is contained in the report on the ninth session of the Implementation Review Group (CAC/COSP/IRG/2018/8).

conference room paper entitled "Summary of the study on effective management and disposal of seized and confiscated assets" (CAC/COSP/WG.2/2018/CRP.1), together with the draft non-binding guidelines on the management of frozen, seized and confiscated assets (CAC/COSP/WG.2/2018/3). It was noted that the secretariat, in continuing its work on the two papers, encouraged States to continue sharing comments and good practices with it. The non-binding character of the guidelines was underscored and the representative of the secretariat explained that the role of the guidelines was to serve as an inspiration and guidance for States wishing to enhance or review their asset management structures.

47. The introductory remarks by the representative of the secretariat were followed by an overview delivered by the Coordinator of the StAR Initiative. The overview was focused on the technical assistance and capacity-building delivered by the Initiative since the Working Group on Asset Recovery had met last.

48. The StAR Initiative Coordinator explained that country engagements were designed as multi-year programmes and covered a wide range of activities, including tactical analysis and establishment of asset recovery strategies, financial investigation techniques, asset disclosure, forensic audits in preparation for cases, case management advice, facilitation of contacts and case consultations with other jurisdictions, and assistance with mutual legal assistance requests. Work was undertaken with financial intelligence units, law enforcement agencies, public prosecutors, central authorities, judges and magistrates. Such assistance entailed both capacity-building activities and targeted, case-related support. The methodology for the StAR Initiative assistance included training workshops and the placement of mentors and the facilitation of cooperation, both domestically and internationally.

49. The StAR Initiative Coordinator noted that, during the previous year, 20 countries had received assistance through the Initiative. In December 2017, the StAR Initiative had facilitated the organization of the Global Forum on Asset Recovery, which had been hosted by the United States and the United Kingdom. There had been 250 participants, representing 26 jurisdictions. More than 100 bilateral meetings had taken place, at which ongoing cases had been discussed, focusing on Nigeria, Sri Lanka, Tunisia and Ukraine.

50. The StAR Initiative had also continued its work on the development of knowledge products and had supported the publication of beneficial ownership guides and the finalization of the guidelines for the efficient recovery of stolen assets, developed during the Lausanne process.

51. A representative of the Secretariat provided background information on initiatives to promote progress in asset recovery cases, which was the topic of the panel discussion.

52. In briefing the meeting on the Global Forum on Asset Recovery, a panellist from the United States explained that the Forum had been established following the Anti-Corruption Summit held in London in December 2016, in response to emerging needs from four focus countries: Nigeria, Sri Lanka, Tunisia and Ukraine. The objective of the Forum was to advance the recovery of assets such as through the building of capacity, dialogue and making progress on actual asset recovery cases. The Forum had been attended by practitioners involved in ongoing cases in the focus countries and its programme had included plenary sessions on various relevant topics and technical sessions for three workstreams: (a) prosecutors; (b) technical assistance providers; and (c) investigators. There had also been a separate workstream for civil society organizations. He explained that the Forum was a process, not just a meeting, and had included the preparation of technical assistance road maps for each of the four focus countries, capacity-building for practitioners, bilateral and multijurisdictional case discussions and technical assistance provided during the meeting, as well as follow-up after the meeting in order to build the long-term capacity of the focus countries. He explained that the discussions held during the event had facilitated practical progress on cases in the focus countries and highlighted specific outcomes, including the signing of a memorandum of

understanding between the World Bank, Nigeria and Switzerland for the return of $321 million to Nigeria.

53. The panellist from Sri Lanka described the efforts that had been made following a regime change in Sri Lanka in 2015. He explained that the new Government had made a global appeal for the return of stolen assets. He emphasized the particular difficulties that countries could experience in international cooperation and the importance of establishing a domestic coordination mechanism. He also emphasized the importance of political will, which, in the case of Sri Lanka, had led, among other things, to the establishment of a financial crimes unit in the police and the strengthening of the main anti-corruption agency. Other efforts included improving the legal framework through a participatory process involving civil society. The speaker explained that their efforts were being aided by the Global Forum on Asset Recovery process and by asset recovery training, which had culminated in over 38 meetings with international counterparts on pending cases. While international cooperation remained a challenge in terms of engaging with a few jurisdictions, he expressed optimism and called for asset recovery to remain a global priority and for the continued investment of resources in asset recovery.

54. The panellist from Norway recalled that asset recovery needed to be viewed in the overall context of the Sustainable Development Goals, in particular the discussion on financing for development. She emphasized the enormity of the task of mobilizing resources to achieve the 2030 Agenda for Sustainable Development and said that progress in particular cases had yet to transform into systematic and consistent momentum. She reported on the challenges in investigating and prosecuting grand corruption cases in Norway, including very long timelines for concluding cases. She stressed the readiness of Norway to continue supporting regional practitioners' networks, the importance of technical assistance as an indication of political support and the need to guarantee the independence of practitioners.

55. The panellist from the StAR Initiative reiterated the ongoing nature of the Global Forum on Asset Recovery process. She explained that the preparations for the event had been a collaborative effort by all four focus countries and multiple relevant jurisdictions. Those efforts had included the provision of technical assistance such as training, the provision of legal advice, the organization of bilateral and multilateral meetings and dialogue, and the involvement of civil society.

56. In the ensuing discussion, several speakers expressed their appreciation for the Global Forum on Asset Recovery, recognizing its potential to build political momentum and consensus, including on principles of transparency. Speakers noted with appreciation the technical assistance provided and the work carried out by UNODC. One speaker emphasized the need to strengthen international cooperation for the return of stolen assets in view of the 2030 Agenda, and proposed further work in that regard, including the compilation of information on refusal of requests. Speakers expressed appreciation for the work of the secretariat on preparing non-binding guidelines on the timely sharing of information and on the management of returned assets. Those documents were to be the subject of further discussion during subsequent meetings of the Working Group. Another speaker highlighted the challenges faced by States in securing international cooperation using administrative and civil proceedings to recover stolen assets and urged further discussion of the topic in the context of the Working Group and in the framework of technical assistance activities. Another speaker, while acknowledging those challenges, stressed the need to also focus on furthering cooperation in criminal proceedings. One speaker highlighted those challenges and emphasized the need for the elimination of safe havens that created incentives for the transfer abroad of stolen assets. Another speaker, while acknowledging those challenges, noted that the subject of safe havens had already been addressed by the open-ended intergovernmental expert meetings to enhance international cooperation under the United Nations Convention against Corruption.

57. Many speakers expressed their readiness to provide technical assistance and described their regional and thematic technical assistance programmes. They stressed the importance of partnerships, including through the support of networks and the building of synergies with other relevant international organizations in order to make the best use of available resources, knowledge and expertise and to avoid duplication in the provision of technical assistance. One speaker emphasized the need for a country-led, country-based integrated and coordinated approach to technical assistance. Another speaker highlighted the benefits of publishing full country review reports in order to promote greater understanding of the technical assistance needs of the States parties under review. One speaker noted the importance of linking the thematic reports on trends from both review cycles to technical assistance programming, and of involving civil society in relevant activities. Several speakers reiterated the importance of the continued discussion and research on impact of settlements on asset recovery. Several speakers also noted the importance of collecting information on the practice of application of value-based seizure orders.

58. A panel on partnerships on asset recovery was organized. A representative of the secretariat provided background information on the topic of the panel.

59. The panellists from Germany and the International Centre for Asset Recovery of the Basel Institute on Governance briefed the Group on the "Africa-Europe dialogue on asset recovery", which had been organized by the German Agency for International Cooperation and the International Centre for Asset Recovery and held in Berlin on 21 and 22 March 2018. The panellists pointed out that asset recovery could contribute to domestic resource mobilization in order to close the financing gap for the Sustainable Development Goals. They noted that participants in the dialogue had agreed that, while the Convention provided the framework for international cooperation on corruption cases and asset recovery, cooperation was a shared responsibility between requesting and requested States. They had highlighted that they still faced particular difficulties with regard to the enactment of asset recovery-enabling measures such as the establishment of the offence of illicit enrichment and non-conviction-based confiscation of unexplained wealth. Some of the proposed measures, which would facilitate asset recovery, had included enhanced action against banks, lawyers and other enablers in the countries where assets were located.

60. The panellist from Switzerland provided an overview of the so-called Addis process and of his country's experience with asset return. He explained that the Addis process had been initiated by Ethiopia and Switzerland, with the support of UNODC, to bring together the various agendas of financing for development, asset recovery and sustainable development. The process comprised the following: (a) management of seized and confiscated assets; (b) end use of returned assets in support of the Sustainable Development Goals; and (c) negotiation of agreements for returning assets. He underlined that, while each case was different and involved different countries, needs and amounts, there were nevertheless similarities and general recommendations that would enhance cooperation, including the importance of partnerships, transparency and accountability.

61. The panellist from China introduced a conference room paper containing ten recommendations on asset recovery (CAC/COSP/WG.2/2018/CRP.3), which had been recently proposed as the outcome of discussions at the APEC Network of Anti-Corruption Authorities and Law Enforcement Agencies training workshop on asset recovery, held in Bangkok in March 2018. The recommendations were grouped into three sections: commitment, cooperation and capacity-building. In the first section, it was recommended that APEC member States reiterated their political commitment to the Convention and to denying safe haven to corruption offences and proceeds of corruption. In the second section, it was recommended that APEC member States proactively used the Convention as a legal basis for mutual legal assistance and asset recovery. In the third section, the importance of capacity-building was stressed. The panellist reiterated his country's commitment to denying safe haven to corrupt officials and ill-gotten assets, based on the concept of zero-tolerance to

corruption, zero loopholes in mechanisms for asset recovery and zero obstacles to cooperation.

62. In the ensuing debate, speakers welcomed the organization of the Africa-Europe dialogue on asset recovery and the Addis process. Several speakers referred to their countries' experiences in sharing intelligence for the purpose of asset recovery, and to their successes and challenges in seizing, freezing and confiscating proceeds of corruption. Speakers emphasized the importance of regional asset recovery inter-agency networks for the sharing of case-related information, as well as the role of financial intelligence units and the Egmont Group. Speakers also underlined the importance of technical assistance in the field of asset recovery.

63. One speaker suggested that forums similar to the Global Forum on Asset Recovery be held in other regions.

64. A representative of the International Anti-Corruption Academy underscored the crucial importance of education and training of anti-corruption practitioners and presented an overview of the Academy's programmes, including the master's degree in anti-corruption studies.

65. A number of speakers welcomed the organization of joint meetings of the Working Group and the Implementation Review Group.

VII. Conclusions and recommendations

66. The Working Group re-emphasized the importance of the continuing efforts of States parties to build trust and confidence, strengthen political will and overcome barriers to cooperation in asset recovery.

67. The Working Group re-emphasized the importance of asset recovery as an important factor of the domestic resource mobilization required for the achievement of the Sustainable Development Goals.

68. The Working Group welcomed the holding of joint meetings with the Implementation Review Group on technical assistance and capacity-building.

69. The Working Group encouraged States to make use of their reviews during the second review cycle to enhance their implementation of chapter V of the Convention and to request technical assistance to address any challenges identified.

70. The Working Group adopted its workplan for the period 2018–2019. One speaker expressed support for discussions, in the context of the subject of third-party challenges as contained in the workplan, that included consideration of the impact of contingency attorney fees, which were fees in cases where Governments contracted private attorneys for representation in asset recovery matters in exchange for the attorneys receiving a percentage of funds that might be recovered, on asset recovery proceedings and the value of assets recovered by the people harmed by the corruption.

71. The Working Group commended the work done by the Secretariat on the directories of competent national authorities, in particular, the development of the database containing the contact details of asset recovery focal points. The Group recommended enhancing its capabilities by, inter alia, exploring the introduction of additional technical functions allowing for the timely and secure sharing of information between focal points.

72. The Working Group commended the Secretariat's efforts to merge the TRACK portal and SHERLOC and requested that it continue those efforts.

73. The Working Group highlighted the importance of further research into cooperation in the tracing of assets, civil actions for the purposes of asset recovery and recognition and enforcement of foreign confiscation orders as important practical areas relevant to strengthening cooperation in asset recovery matters.

74. The Working Group recommended that the Secretariat collect information on the practice of mutual recognition of non-conviction-based freezing orders and confiscation judgments.

75. The Working Group recommended that the Secretariat collect information on examples of how countries have worked together to ensure transparency and accountability in the return and disposal of confiscated proceeds of corruption.

76. The Working Group encouraged States to consider introducing non-conviction-based confiscation as a useful legal mechanism for asset recovery.

77. The Working Group highlighted the importance of studying and overcoming challenges associated with access to beneficial ownership information and requested the secretariat to continue updating the Group on future activities in that regard.

78. The Working Group urged States to share information in a proactive and timely fashion, as that was a crucial step in the success of transnational asset recovery cases.

79. The Working Group recommended that States continue strengthening and developing asset recovery practitioners' networks and use the Working Group meetings for informal cooperation in corruption matters. The Group welcomed the creation of the directory of asset recovery networks by the StAR Initiative.

80. The Working Group took note of document CAC/COSP/WG.2/2018/5 and supported the further study and consideration of and discussions on the non-binding guidelines on the timely sharing of information in accordance with article 56 of the Convention and improving communication and coordination between various asset recovery practitioner networks. It requested the Secretariat to submit them to States parties for comments.

81. The Working Group took note of the results of the international expert group meeting on identifying good practices in the management and disposal of seized and confiscated assets, held in Washington, D.C., on 7 and 8 December 2017, and the study on the effective management and disposal of seized and confiscated assets contained in CAC/COSP/WG.2/2018/CRP.1. The Group encouraged further compilation of experiences and comments, including those of Working Group participants, with a view to holding discussions on them at the second resumed ninth session of the Implementation Review Group, as well as at the next meeting of the Working Group.

82. The Working Group welcomed the progress that had been made in enhancing the recovery and return of stolen assets and, in particular, the positive role played by UNODC and the StAR Initiative in supporting that process and providing relevant technical assistance.

83. The Working Group noted the organization of the Global Forum on Asset Recovery and the APEC Network of Anti-Corruption Authorities and Law Enforcement Agencies training workshop on asset recovery and also noted the possibility of organizing similar forums and workshops in the future.

VIII. Adoption of the report

84. On 7 June 2018, the Working Group adopted the report on its twelfth meeting (CAC/COSP/WG.2/2018/L.1 and CAC/COSP/WG.2/2018/L.1/Add.1), including the parts of the report on items 3, 4 and 5, and its conclusions and recommendations.